

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
MEETING OF THE
UNDERGROUND STORAGE TANK POLICY COMMISSION

Phoenix, Arizona
April 23, 2008
9:00 a.m.

Location: 1110 W. Washington
Room 250
Phoenix, Arizona

REPORTED BY:
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1 COMMITTEE MEMBERS PRESENT:

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3 Gail Clement, Chair

4 Philip McNeely

5 William (Bill) Bunch

6 Catherine Chaberski

7 Jon Findley

8 Tamara Huddleston, Esq.

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1 PROCEEDINGS

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3 CHAIRPERSON CLEMENT: Good morning, everyone.

4 Welcome to the April 23rd, 2008 UST Policy Commission

5 meeting.

6 We will take a roll call, and if we could start

7 with Mr. Jon Findley. Right.

8 MR. FINDLEY: Jon Findley, the Sierra Club

9 environmental representative.

10 MR. BUNCH: Bill Bunch with Circle K Stores, Inc.

11 CHAIRPERSON CLEMENT: Gail Clement.

12 MR. MC NEELY: Phil McNeely with DEQ.

13 MS. HUDDLESTON: Tamara Huddleston, Attorney

14 General's Office.

15 MS. CHABERSKI: Cathy Chaberski, City of

16 Glendale.

17 CHAIRPERSON CLEMENT: Okay. Did everybody

18 receive the February 27th meeting minutes?

19 Did everybody have a chance to review them?

20 Do we have a motion to approve the February 27th

21 meeting minutes?

22 MS. CHABERSKI: Motion to approve.

23 CHAIRPERSON CLEMENT: Second?

24 MR. BUNCH: I second.

25 CHAIRPERSON CLEMENT: Any discussion, comments?

1 Okay. All in favor of approving the
2 February 27th, 2008 meeting minutes?
3 (Chorus of ayes.)
4 CHAIRPERSON CLEMENT: Anyone opposed? No?
5 Okay. The February 27th, 2008 UST Policy
6 Commission Meeting minutes have been approved.
7 And now we will move to the ADEQ updates with Mr.
8 Phil McNeely.
9 MR. MC NEELY: Thank you. ADEQ updates. If you
10 pull out your packet, we can start with the LUST
11 statistics. And that's the non-color Corrective Action
12 Section, LUST Statistics.
13 February, March you can see new LUST reported in
14 February was seven, in March it was two. So that's
15 consistent with what we've been having really the last
16 year. We had about 30 last year, 20 some last year, so
17 not a whole lot of new LUSTs, which is a good thing.
18 Closed LUSTs, it's actually pretty slow this
19 year. We closed 16 in February and 22 in March, a little
20 spike of closures, which is good. You can see we're still
21 going in the right direction, closing more than we're
22 opening.
23 If you look at cumulative total numbers, there is
24 something that will catch your eye. In February, we had
25 8,800 total releases, and in March we had 8,400. The

1 reason that changed is that's a database error.

2 CHAIRPERSON CLEMENT: Which is correct?

3 MR. MC NEELY: We think the March is correct, but
4 the problem is, you know, you are mining data and what
5 code you put in, and I think some codes got put in there
6 that were suspected releases and we changed it, but it's
7 hard to go back and actually regenerate the data for
8 February, so I just wanted to point that out. But if you
9 look, it didn't make any difference in terms of the
10 statistics. It's still 85 percent closed.

11 So, in March we had 1,270 open LUSTs, 15 percent,
12 and about a hundred -- and I don't have the exact number,
13 but a little bit over a hundred are not SAF eligible, so
14 we have about 1200, a little bit under 1200 SAF eligible
15 LUST releases out there.

16 Going down a little bit below that, Corrective
17 Action Documents, you can see we only have 14 documents
18 in-house pending right now, so we're not having a whole
19 lot of activity coming in. So really what the project
20 managers are doing now are reviewing files, trying to do
21 site visits, a lot of them are in remediation already, so
22 no review is required.

23 CHAIRPERSON CLEMENT: One question. In terms of
24 your risk assessments, what's happening to that?

25 MR. MC NEELY: In terms of like how do we do risk

1 assessments?

2 CHAIRPERSON CLEMENT: No. It's not included in
3 your statistics, like the dates that they were submitted
4 and how long it takes to figure they are completed.

5 MR. MC NEELY: You asked that last --

6 CHAIRPERSON CLEMENT: Yes.

7 MR. MC NEELY: I was trying to get that
8 accumulated, but, Joe, do you have that?

9 MR. DROSENDAHL: Right now we know of four risk
10 assessments. You know, if people on the outside have --
11 know of risk assessments that they haven't gotten word on,
12 definitely just e-mail me and we'll put it on the list.

13 Our risk assessor, Jeanene Hanley, she's training
14 other internal staff to be able to use the Tier 2
15 software, so hopefully we will have more than just one
16 person able to review risk assessments.

17 CHAIRPERSON CLEMENT: How long is your oldest?
18 Are they getting turned around in like a 90-day period of
19 time, 180 days? What's your time frame for reviews?

20 MR. DROSENDAHL: That I'm not sure of off the top
21 of my head.

22 MR. MC NEELY: I mean, our goal would be, we
23 wouldn't want to have risk assessments sitting any other
24 longer than any other report, really. We don't have that
25 many in-house anymore.

1 CHAIRPERSON CLEMENT: But it's always been done
2 in-house?

3 MR. MC NEELY: Outside parties can do it and then
4 submit it for review.

5 CHAIRPERSON CLEMENT: But your reviews are always
6 done by DEQ staff in the UST program?

7 MR. MC NEELY: Right, we don't contract out.
8 These are Tier 2 risk assessments. They are not
9 full-blown, like Tier 3 risk assessments.

10 CHAIRPERSON CLEMENT: Okay.

11 MR. MC NEELY: You could do that, but we really
12 haven't.

13 CHAIRPERSON CLEMENT: Thanks.

14 MR. MC NEELY: Okay. Well, then, the Municipal
15 Tank Closure Program, that's still just plugging along. I
16 think we've been stuck at 147, 149 tanks removed, but we
17 have some more applications in-house and that should be
18 going up.

19 Well, I will talk about SAF next, if you can pull
20 the SAF colored graphs out. In February we received 45.
21 That's the yellow column. And we made 74 interim
22 determinations.

23 In March we received 43 applications and we
24 reviewed 63. So if you look at the little table below, we
25 have total number of applications as of March 31st, 97

1 in-house. And I don't think there's ever been a low
2 number like that since I've been involved for ten years.
3 97. And we can process -- we can almost process 97 in a
4 month if we are really pushing, so we don't have a backlog
5 at all. These things are all within 90 days processed.

6 You can see the breakdown. We have 27 direct
7 pays. Those are requests for -- a payment coming from a
8 pre-approved work plan; 5 pre-approval requests in and 65
9 reimbursements.

10 CHAIRPERSON CLEMENT: Great.

11 MR. MC NEELY: And go into the next staging, I
12 just want to talk about the SAF appeals. We had 20
13 appeals in February and 18 in March for informal. And we
14 made 44 determinations in February and 35 in March. So
15 that seems reasonable in terms of the number of appeals we
16 have.

17 And then the formal appeals, we had six in
18 February, ten in March, and we made three final
19 determinations and ten in March, so we're not being
20 overloaded with appeals either; just steady.

21 CHAIRPERSON CLEMENT: And there was one hearing,
22 one OAH hearing?

23 MR. MC NEELY: Yes, there was, and I'm drawing a
24 blank as to which one that was.

25 CHAIRPERSON CLEMENT: Was there a decision on

1 that?

2 MR. MC NEELY: Yes, there was a decision. It
3 actually comes to my memory now.

4 There was a decision. It was about a 58 or
5 \$60,000 appeal. It was a technical appeals panel that
6 actually made the decision. It was Lonestar, a site down
7 in Douglas, I believe, and the TAP recommended paying
8 24,000, not 58, and the director upheld that.

9 CHAIRPERSON CLEMENT: So it's closed, then?

10 MR. MC NEELY: Yes, unless someone appeals it to
11 Superior Court, but I don't think they will.

12 CHAIRPERSON CLEMENT: Thank you.

13 MR. MC NEELY: You are welcome.

14 Now, I have other updates, not SAF related --
15 well, they're actually related, but the next one is the
16 cost schedule, and I will pass that to you.

17 Every year we have to update the cost schedule,
18 according to statute, and this year we're updating it.
19 It's supposed to be done by July 1st, and we're doing a
20 cost increase of 1.9 percent, and that's based on the 2007
21 Annual Bureau of Labor Statistic Producer Price Index for
22 finished goods less food and energy not seasonally
23 adjusted.

24 So that's one we use every year. It's 1.9
25 percent this year. We're not changing any of the tasks.

1 We're not adding anything at all except for just raising
2 the prices 1.9 percent. And we would like to just keep it
3 the same until the end of the SAF in 2010, leave
4 everything the same except for doing the annual
5 adjustments.

6 The only thing we didn't adjust was mileage.
7 It's at 45 cents a mile. The state actually reimburses
8 44.5 cents a mile, but we rounded it up to 45, and it was
9 the same as last year. It has not been increased. If it
10 ever gets increased even halfway through the year, then we
11 will try to increase it to match what the state pays for
12 mileage.

13 So we actually need a vote on this before
14 July 1st. We'd like to post this on the website by
15 June 1st so applicants filling out SAF applications can
16 actually use the new numbers. By July 1st we have to have
17 it implemented.

18 CHAIRPERSON CLEMENT: Do people -- we don't have
19 this on the agenda, so I don't really think we can vote on
20 this, but let's take, you know, the time. It's very
21 straightforward. It doesn't seem like it would be a
22 controversial issue at all. Nothing is changed except for
23 the 1.9 percent. We will add this to the next agenda and
24 you will post it and we will make sure that people are
25 aware of it.

1 But do you have any questions for Phil regarding
2 the schedule or any other information that he's provided?

3 No? Okay.

4 MR. MC NEELY: And through the years, usually we
5 keep track if consultants ask for review task assignments,
6 and we really haven't had any requests. Internally, we
7 really haven't had a need to add costs, so I think it
8 should be okay.

9 The next update. And I talked to a few of you,
10 but we have an EPA award. We initiated last summer the
11 school assistance program, which entails going to all the
12 schools that have operating USTs, and not inspecting them,
13 but giving them compliance assistance, actually walking
14 the facility manager around, teaching him how to comply
15 with the laws and what he's doing wrong or how he can do
16 it right. And we actually handed out a notebook, a
17 three-ring binder with all the forms in there about
18 inventory forms and what he needs to do, how to inspect
19 it. And we did that with every single school, which is
20 about 47 schools, and they really appreciated that.

21 And then we had about 17 schools that had an open
22 LUST number, and we went to each one of those and worked
23 with them, and quite a few of them, about half of them are
24 coming into our State Lead program, because they really do
25 not have the technical resources to manage consultants or

1 contracts. We kept trying to stress to them, you've got
2 two years and your SAF is going to be gone. So our school
3 districts certainly can't afford to be paying a million
4 dollars clean-up out of their own school budget. So we
5 pushed hard, and it took a lot of effort because they're
6 busy. It's like one guy is in charge of all of the
7 facilities, and even with us going out and calling, it
8 took a lot of effort to actually get them to apply for
9 SAF, or actually to move forward.

10 But all of them are moving forward now, so we
11 think it's been a successful program. We've closed quite
12 a few of the sites. A lot of the sites just needed a
13 boring or some more samples, so EPA recognized that and
14 they gave us a 2008 Environmental Award for Outstanding
15 Achievement, and you can see that.

16 Here's the award, so I will just pass that
17 around. But that was on April 15 at Region 9, and Don
18 Spencer is the project manager of that project, and he
19 went out to Region 9 and accepted the award on behalf of
20 DEQ.

21 CHAIRPERSON CLEMENT: Congratulations to the
22 program and to your initiative on that, and that is really
23 one of the best things I think I've heard in a long time
24 that DEQ has been able to accomplish, so congratulations.
25 It's nice that you did it, but even better that you're

1 recognized.

2 MR. MC NEELY: Thank you. And UST has been
3 around 20 years. You don't really think of UST helping
4 children, school initiatives, and that's what the
5 government has been pushing for years, and internally we
6 just came up with this, you know, this is not a bad idea
7 and it actually worked out pretty well, and it was well
8 received by the schools.

9 Route 66 Initiative. That has not stopped. We
10 started in Winslow and Holbrook, and we pushed hard for
11 that. A couple of years ago we had conferences in Winslow
12 and Holbrook with the mayors and the city council and
13 members of EPA, the Brownsfields Program, the federal --
14 the Park Service. There is a whole bunch of agencies out
15 there really trying to preserve Route 66.

16 On April 15th, we had another conference in
17 Kingman with EPA, Brownfields, the Mayor of Kingman, the
18 City Council, the Chamber of Commerce, and we're just
19 saying that's our western end of the Route 66 Initiative.
20 So we had all day, really just presentations about what's
21 available. Brownfields, Municipal Tank Closure program,
22 SAF, so I think that went pretty well.

23 I did not attend that, but Bill Engstrom from our
24 program did a presentation and Pat Cunningham. So, it was
25 well received, and I think we are going to get quite a few

1 more applications for the Municipal Tank Closure program
2 from this conference, because it requires a county or city
3 to apply. Kingman is not eligible because they are right
4 at the 15,000, but outside the city limits there is a lot
5 of abandoned tanks along Route 66, so Mohave County is one
6 who applied for those sites.

7 Thank you. And I think -- oh, I've got one more
8 update. There was a lot going on in the last month.

9 The MNA Rule. Last meeting we said we were going
10 to have a stakeholder meeting on March 18th and we had
11 that meeting, and a couple of people attended. Cathy
12 attended and Theresa Kalaghan attended. We had about 14
13 or 15, mainly consultants attend, and then we had an
14 internal meeting, too, to go over with our staff.

15 Right now we have seven sites we are about to
16 send out for public comment. It requires -- the MNA Rule
17 -- this is actually not the MNA portion. There is a
18 closure of groundwater sites exceeding groundwater or
19 water quality standards, there is a portion of the rule
20 that says that, gives us authority, and that requires a
21 30-day public notice period.

22 So we have seven sites under that portion of the
23 rule that we're initiating that process. There is a
24 couple in Tucson, a couple in Phoenix, so the rule
25 requires us to notify the property owner, the city, the

1 county, the water provider and ADWR.

2 So we have those letters drafted. They should be
3 going out maybe this week or maybe early next week, and
4 we'll see their response. We're trying to pick sites that
5 aren't very controversial. There is one well that's
6 contaminated barely, but we think it's not cost effective
7 to continue cleaning it up, and they're all on site, so
8 we'll see their response on that.

9 That's all I have for the updates.

10 CHAIRPERSON CLEMENT: Questions or comments?

11 How do we get information? Will it be posted,
12 will public notice be posted also on the website for these
13 closures?

14 MR. MC NEELY: We will post them on the website,
15 and if you want us, I don't know if the Policy Commission
16 is interested, but we could send you -- e-mail you some
17 notices to see what they look like.

18 CHAIRPERSON CLEMENT: I think that would be
19 helpful. I think that would be good, because, especially
20 as you are starting this, I think it would be nice to know
21 what's going on. And, you know, if we get questions, then
22 we can be responsive, also.

23 So, just as we start, I wouldn't make it a
24 continuing thing, because as this thing gets rolling it
25 may be, if you are lucky, 50, but it will be, I think,

1 interesting and an important presentation.

2 MR. MC NEELY: We'll send you an e-mail with the
3 public notice that we have. The public notice has the
4 maximum concentration, the current concentration, and just
5 lists out that they have 30 days to comment.

6 CHAIRPERSON CLEMENT: Okay. Thank you.

7 MR. MC NEELY: You are welcome.

8 CHAIRPERSON CLEMENT: You are on next.

9 MR. MC NEELY: I know I am.

10 CHAIRPERSON CLEMENT: Discussion of recent
11 legislation and rules affecting the UST program, and the
12 first one is House Bill 2425.

13 MR. MC NEELY: House Bill 2425. Since last time
14 we met and the Commission voted on it and approved it and
15 actually wrote a letter to the Senate and the House, and I
16 guess Director Owens is supporting it, we've had a couple
17 of amendments.

18 In the House, we've had Representative Barns
19 called a stakeholder meeting, really with just a member of
20 the Chamber of Commerce and Western States Petroleum and
21 APMA, and some other -- VP Arco was there.

22 They had some issues with the definition of new
23 component. They thought it was confusing, so we added new
24 piping component into that definition.

25 There was also an issue about how quickly the

1 Director will respond when we take off a stop use tag, so
2 we amended it saying, as soon as practical, the Director
3 will respond releasing the stop use.

4 And that got voted through. It went through the
5 House, then it went through the Senate, and then it failed
6 the first time in the Senate. The Senate, Natural
7 Resources Committee voted 6-0 or 0-6, completely shot it
8 down. I think it was a bad day, because they voted almost
9 everything down that day. We waited four and a half hours
10 to get voted down in like three seconds of discussion, so
11 then we had to do some homework and talk to all the
12 members, and they agreed to put it back on the agenda, but
13 we had it amended again.

14 So, in your package you'll see the amendment we
15 made for their committee, and now we've put a time frame.
16 The two things we put on there is, we will post the stop
17 use order on our website. That way any deliverer can
18 actually look at it. And the second one was, within five
19 business days we will remove -- not remove it, but we will
20 give notice that the stop use tag has been satisfied, the
21 violation. Because if we left as soon as practical in
22 there, but now we say as soon as practical, but not later
23 than five business days.

24 That went through unanimously through the Senate.
25 It's still in the Senate. It needs to go through a third

1 read in the Senate, but since we changed the language from
2 the House, the House has to concur with what the Senate
3 did. So we're hoping by next week it will be through the
4 legislative process and up to the Governor's Office.

5 CHAIRPERSON CLEMENT: Once the Senate votes, and
6 I think you just said this, but I didn't catch it. Once
7 the Senate votes, because it was amended by the Senate,
8 then it does go back to the House for a final vote?

9 MR. MC NEELY: Right.

10 CHAIRPERSON CLEMENT: And then to the Governor's
11 Office?

12 MR. MC NEELY: Yes.

13 CHAIRPERSON CLEMENT: And from your perspective,
14 knowing what's going on in the legislature, it will pass,
15 do you think?

16 MR. MC NEELY: We think it will pass because the
17 budget is signed, out by the next -- the budget for '08
18 has already been signed by the Governor. So I was a
19 little worried that maybe that would be used as leverage,
20 but since the budget's signed, I think it will go through,
21 but you really never know. That's the thing about the
22 legislature. I'm always hoping it goes through because we
23 really need this to happen.

24 Okay. Any questions on that?

25 CHAIRPERSON CLEMENT: Are there any -- in the

1 current version, is anyone opposed to it that is a player
2 in the legislature?

3 MR. MC NEELY: Everyone was -- even when it got
4 voted down, everybody -- and I can even name off all the
5 people that supported it, which surprised me because I
6 really don't know who a lot of these people were.
7 Actually I didn't print it out. There was a lot of
8 support for it, and the only one that was actually not
9 supportive of it was the APMA, but they were neutral on
10 it. So we actually had no opposition at all and it got
11 voted down. It got voted down because the Senators said
12 they don't like the Federal Government telling the State
13 what to do. It's a federal/state problem.

14 And I try to tell them that we have stakeholder
15 support and the owner/operators want to comply with
16 Federal law, but they didn't really buy that.

17 MR. BUNCH: Did they understand the consequence
18 of the State of Arizona not complying with Federal
19 requirements?

20 MR. MC NEELY: No. I tried to explain that to
21 them and they didn't seem too concerned.

22 MR. BUNCH: And we have a budget, and they are
23 not concerned about Federal funding?

24 MR. MC NEELY: Yes. I mentioned that SAF is
25 being cut in two years and we have 1.3, 1.6 mil a year

1 from the Feds, and they will withhold our funding if we
2 don't pass. They said, don't worry about it. So, they
3 are not concerned.

4 MR. BUNCH: Did you mention that there's a
5 portion of this legislation that's going to require you to
6 keep a website? Is that actually in the legislation?

7 MR. MC NEELY: Oh, yeah. If you look at the
8 amendment we put in there, where it says "F", "Upon
9 issuance of a stop use order, the Director shall notify
10 product deliverers by posting on the Department's website
11 the name and location of a facility with an underground
12 storage tank that has a stop use tag."

13 It says, "The notice shall specify which
14 underground storage tank at the facility has a stop use
15 tag."

16 So that was the compromise to put that on there.
17 My argument against doing that, saying we are going to go
18 through a whole stakeholder process to develop what the
19 red use tag or the stop use tag looks like, how we notify,
20 if it's going to be e-mail or posting, even if they want
21 notification, because, you know, some indication that they
22 don't even want to be notified, let the owner/operator
23 deal with that and not the deliverers, but this was a
24 compromise, and now it's a statute so we're going to have
25 to at least put it on the website.

1 CHAIRPERSON CLEMENT: So would now be a timely
2 point for the Evaluation Subcommittee to discuss the
3 process itself, or do you need some additional work there?

4 MR. MC NEELY: Yes. I think -- well, hopefully
5 it goes through next week and gets signed, but we are
6 going to have to develop -- we have until January 1st,
7 2009, according to the legislation, before we implement
8 it, so we're going to have to develop what the stop use
9 order will look like, what the stop use tag will look
10 like, and I think that would be a good thing.

11 We really would want to get deliverers to
12 participate so they know what's coming and how we're going
13 to notify them and how they want to be notified, and
14 things like that. And I am not really sure. I don't --
15 DEQ doesn't really regulate deliverers yet, so I'm not
16 sure how to get a hold of them to actually compel them to
17 show up at a stakeholder meeting. That might be helpful.

18 MR. BUNCH: We do our best.

19 MR. MC NEELY: The last thing for the update on
20 the other category would be our budget. The House Bill
21 2620 passed through the House and Senate and the Governor
22 signed it. That's our budget for fiscal year '08.

23 And the consequences to DEQ is, they are taking
24 -- sweeping \$28.4 million from the SAF this year. And
25 before you get too concerned, we still have about

1 \$28 million in the fund balance after they sweep it. So,
2 my main concern was that we didn't want to go into
3 ranking, ever want to have to go back to ranking
4 applications awaiting for payment, so we're okay with the
5 first sweep.

6 We need to keep our eyes open for the FY '09
7 budget, because I'm sure they're looking at the same
8 sources to sweep.

9 Just to tell you, the rest of DEQ, the WQARF
10 program with \$3 million was swept from WQARF. 1.1 million
11 was swept from the recycling fund, and 600 million was
12 swept from the general fund -- I mean 600,000, excuse me.
13 And that's -- all of those -- I mean, it's not devastating
14 for any of the programs. That's one thing we wanted to
15 make sure we didn't devastate any particular program.

16 So the Governor signed that, and that's -- I
17 guess that's a done deal, and now they'll be looking at
18 the FY '09 budget, and I'm sure they are going to start
19 with this bill for FY '09 to see where they get their
20 money from.

21 CHAIRPERSON CLEMENT: FY '09 would be passed next
22 year or would they try to sweep ahead, 'cause don't they
23 want to have their budget numbers close?

24 MS. HUDDLESTON: FY '09 starts in July.

25 MR. MC NEELY: July 1st. We only have two and a

1 half months left, that's why this is so critical to get.

2 CHAIRPERSON CLEMENT: So they will actually do it

3 right now, then?

4 MR. MC NEELY: Right now.

5 CHAIRPERSON CLEMENT: Okay.

6 MR. MC NEELY: And hopefully they pass this --

7 well, they have to pass it before July 1st or the

8 government shuts down.

9 CHAIRPERSON CLEMENT: Thank you. I was

10 completely a year off on that.

11 MR. MC NEELY: And as they're saying, they're

12 over a billion dollars. They need to cut a billion

13 dollars, a little over a billion for next year also.

14 That's all I have for the legislative updates.

15 CHAIRPERSON CLEMENT: Do you have any idea where

16 they're headed in terms of the SAF Fund for '09, other

17 than they're going to?

18 MR. MC NEELY: I have no idea. The Governor's

19 Office handles this very closely with the legislature. So

20 I haven't heard that they want to take money. They will

21 probably start with what they did this year, and that's

22 how they start next year's, so I'm sure SAF is right

23 there.

24 CHAIRPERSON CLEMENT: That's a lot of money.

25 Thank you. Thank you very much.

1 Okay. Now we will move to the subcommittee
2 updates. The first is the Evaluation Subcommittee update
3 with Mr. Bill Bunch, Chairman.

4 MR. BUNCH: I have a very exciting update today.
5 There has not been an Evaluation Subcommittee meeting, so
6 I'll keep it short and sweet.

7 This is the time to discuss the next meeting, the
8 opportunity. I'm inclined to just see if this bill gets
9 approved before we start trying to work rules. Based on
10 the history with the legislature, we don't know if this
11 version is going to make it through or not. So, I'd
12 recommend we kind of see how that goes, and I'd like to
13 work this into a time table of when the department would
14 start looking at rules and sort of fit into the
15 legislation, so I'm not sure when that would start based
16 on the January 1 deadline, but we might want to run that
17 concurrently.

18 MR. MC NEELY: Okay. One thing we want to do
19 with the rules is, the stop use tags starts January 1st,
20 2009, when we have to implement that. I'm not sure if we
21 really need anything in rules after we implement that. We
22 do need to develop the stop use tag. But we do have to
23 develop a training program, and that will probably take
24 some rules, so, as soon as we get authority, we will
25 probably open up a docket and start the rules process, and

1 that will happen pretty shortly after we get the
2 authority.

3 MR. BUNCH: If we didn't use the rule approach to
4 define processes, would it make sense for us to provide
5 some recommendations on just how the internal processes
6 would work with DEQ, the logistics of the tag and those
7 sorts of things?

8 MR. MC NEELY: That's what I -- hopefully the
9 committee will do, because we're open for it. We never
10 had this authority before. We're open.

11 CHAIRPERSON CLEMENT: I think we should agree
12 that the Evaluation Subcommittee will take this task on,
13 and then we'll schedule this meeting based on the timing
14 of the final vote for the legislation, and that way you
15 have the flexibility. If you do need a May meeting
16 sooner, rather than a June meeting, then you can move into
17 that without any problem, I think.

18 MR. BUNCH: Okay.

19 CHAIRPERSON CLEMENT: Is there any question?

20 MS. CHABERSKI: One question. You said the tag
21 is the first deadline that we have to have completed by
22 what?

23 MR. MC NEELY: January 1st, 2009, is when we can
24 actually start implementing that. We will have the
25 authority at that point. That doesn't necessarily mean we

1 have to do it on that day.

2 MS. CHABERSKI: When is the deadline for the
3 training program, then?

4 MR. MC NEELY: Everyone has to be trained by
5 2012. By the Federal guidelines, they want you to have a
6 training program developed by August 2009, but we're not
7 going to develop our Arizona independently training
8 program. We are going to see what other states are doing,
9 and what EPA is doing, and just see if we can just borrow
10 or -- that's just a lot of work, so we're going to see how
11 that happens. And if we don't get it done by August 2009,
12 I don't think it's too much of an impact because you got
13 three years before everyone needs to be trained.

14 MS. CHABERSKI: You mentioned California already
15 has the tag program, so for the Evaluation Committee, will
16 those be available, I mean, just so people don't have to
17 reinvent the wheel, we can look at what other tags are?

18 MR. MC NEELY: Yeah. California does have this
19 big old red thing that goes over -- I'm not sure.

20 MR. BUNCH: I've never seen one, but we can
21 certainly look at what's worked and what hasn't worked in
22 other states.

23 MS. CHABERSKI: There are other states that you
24 know of?

25 MR. MC NEELY: There are other states that have

1 the authority. I have never really seen their tags.

2 MS. CHABERSKI: Okay.

3 MR. MC NEELY: I don't know if it's just a little
4 sticker. Some states have like a green sticker where you
5 can get fuel. Other ones have -- we don't want to go with
6 that one. We want to do a red thing where you can't get
7 it, because then we don't want to have put stickers on
8 7,000 tanks. We'd rather put it on one tank that doesn't
9 get it. It may be easier.

10 CHAIRPERSON CLEMENT: It would be smart.

11 MR. MC NEELY: That's the exception.

12 MR. FINDLEY: And it can just be a visual thing,
13 it doesn't have to be a lock, like a wire or something
14 that restricts the --

15 MR. MC NEELY: I personally would rather have it
16 as a lock, so, if they cut it or if they fill up, we know,
17 when we go back out, we know it was filled, so that's what
18 California is like. But it has to be very clearly
19 visible, too, to the product deliverer.

20 MR. FINDLEY: Sure.

21 CHAIRPERSON CLEMENT: How would we identify which
22 states have which programs? What would be the best way to
23 go about that?

24 MR. MC NEELY: EPA will have that. We can get
25 that.

1 MR. BUNCH: I'm familiar with some of them
2 because of where we operate.

3 CHAIRPERSON CLEMENT: Okay. Any other questions
4 or comments at this stage?

5 MR. BUNCH: So that I'm clear, are we going to
6 schedule a May meeting?

7 CHAIRPERSON CLEMENT: I think what I would
8 suggest is that if this passes, the bill passes, that we
9 probably would need a May meeting to get going on this,
10 and, if not, then we'll just wait until it does pass and
11 then perhaps need a June meeting.

12 MR. BUNCH: And were those typically the first
13 Wednesday or something like that? Anyone recall?

14 CHAIRPERSON CLEMENT: Mr. Johnson -- or, Al, do
15 you know when the formal Financial Subcommittee met?

16 MR. JOHNSON: I believe that was Thursday at
17 2 o'clock. It was the first Thursday, I believe.

18 MS. CHABERSKI: It's on the web. It's on their
19 web.

20 CHAIRPERSON CLEMENT: Thank you.

21 MR. BUNCH: It could be May 1. It's actually
22 just a week from --

23 CHAIRPERSON CLEMENT: That doesn't give you much
24 time.

25 MR. MC NEELY: That's fine.

1 MR. BUNCH: So we flew it on which Thursday it
2 might be, or is it pretty much locked in as the first
3 Thursday?

4 CHAIRPERSON CLEMENT: It has been typically the
5 first Thursday, but we're not wedded to any date or time.
6 And I think you should have that flexibility. The only
7 thing is making sure that we have a room available, so,
8 if you pick a date, get in touch with June, I believe, and
9 we all met her this morning.

10 MR. BUNCH: Right.

11 CHAIRPERSON CLEMENT: I can't remember her last
12 name. I apologize.

13 MR. MC NEELY: Schellenberg.

14 CHAIRPERSON CLEMENT: Schellenberg. And she will
15 be the one who can coordinate that meeting, and I wouldn't
16 even stick to Thursday. I mean, say you needed to meet a
17 certain week and the meeting room isn't available on
18 Tuesday or Wednesday, I would play it that way, but get a
19 notice out to me, if you would, and we will make sure that
20 broad-based gets the notices as soon as possible.

21 And I think you will also have to do some
22 follow-up with key constituents, like APMA, who have a lot
23 of deliverers in western states, and you are more familiar
24 with that.

25 MR. BUNCH: Some of the changes that have

1 occurred, so we will find out who's behind these divisions
2 that were made. It's certainly not consistent with a
3 stakeholder group population that worked on the first
4 draft.

5 CHAIRPERSON CLEMENT: But the changes aren't, I
6 think, they are just tightened and clarified. They don't
7 seem to be completely against.

8 MR. BUNCH: Well, there is a couple of
9 philosophical changes.

10 CHAIRPERSON CLEMENT: Well, that will be
11 interesting.

12 MR. BUNCH: Or the democratic process wouldn't be
13 working.

14 CHAIRPERSON CLEMENT: Okay. Anything else, Mr.
15 Bunch?

16 MR. BUNCH: No. So I'm going to probably look at
17 later May just because we need to do some homework, I
18 think and try to get some guidance as to what we've
19 experienced in other states. I think it will take a
20 little bit of time to do my own research.

21 CHAIRPERSON CLEMENT: Okay. Any other on that
22 topic?

23 Okay. Let's move on to the Technical
24 Subcommittee update, and Catherine Chaberski will provide
25 that for us.

1 MS. CHABERSKI: We did not have a meeting and
2 neither of us, Theresa Kalaghan nor I, received any agenda
3 items to move forward.

4 CHAIRPERSON CLEMENT: So, at this point in time
5 there is no meeting scheduled?

6 MS. CHABERSKI: No.

7 CHAIRPERSON CLEMENT: Any questions or comments
8 for Ms. Chaberski?

9 Let's jump to the 2007 UST Policy Commission
10 Annual Report. Through the good graces of ADEQ, I took
11 basically a very well-done polished report, changed a few
12 things in it to clarify where we've been, because it is
13 actually our report, even though, thank you, they do most
14 of the work on it, and especially this year, I really
15 appreciate it.

16 So, did everybody have a chance to review this,
17 read it? Any questions or comments on it? It's very
18 straightforward.

19 And as the subcommittees move forward, if you
20 could just keep track of what you've done so that next
21 year when we roll it up, then I can get that information
22 directly from the subcommittees, because I don't
23 necessarily go to all the subcommittee meetings, and I
24 don't, therefore, have detailed notes on what may have
25 taken place at meetings I didn't attend.

1 MS. CHABERSKI: Starting July 1 for that next
2 year.

3 CHAIRPERSON CLEMENT: Actually it's calendar
4 year, so, January.

5 MS. CHABERSKI: Okay.

6 CHAIRPERSON CLEMENT: It's calendar year. So
7 we've only had one meeting, and I did go to that meeting
8 so...

9 MR. MC NEELY: And it should be easier this year
10 because we are keeping minutes now.

11 CHAIRPERSON CLEMENT: Right. So it should be
12 pretty straightforward.

13 And I will task the subcommittee chair people for
14 that, and I always add to, and DEQ also keeps a good
15 record, so it's not overly burdensome. It's kind of got
16 -- this is my easiest year yet. Thank you all.

17 Okay. If we don't have any comments or
18 questions, is there a motion to approve the 2007 Annual
19 Report?

20 MS. CHABERSKI: Motion to approve.

21 CHAIRPERSON CLEMENT: Is there a second?

22 MR. FINDLEY: I second that motion.

23 CHAIRPERSON CLEMENT: All in favor?

24 (Chorus of ayes.)

25 CHAIRPERSON CLEMENT: Anyone opposed?

1 No? Okay. The 2007 UST Policy Commission Annual
2 Report is approved. I will send you cover letters, and
3 then typically DEQ distributes with a cover letter that I
4 will send. If I would have been thinking, I would have
5 had that with me, but I will get that out this week and
6 get that mailed to you if I'm not downtown again.

7 MR. MC NEELY: Okay.

8 CHAIRPERSON CLEMENT: Good. Thank you everybody
9 on that one. That's good.

10 Our next agenda item is the general call to the
11 public. Are there any public comments today from our
12 public? We have a huge audience today.

13 MR. BUNCH: Right. It's double our usual crowd.

14 CHAIRPERSON CLEMENT: I know. Okay. We will
15 move on.

16 Summary of meeting action items. I'm going to
17 get the cover letter for the annual report out. Mr.
18 McNeely and his staff are going to post the public -- or
19 provide the public notices for the first number of LUST
20 cases that would be closed with potentially groundwater
21 above and aquifer water quality standard in one well on
22 site.

23 Mr. Bunch is going to do quite a bit of research
24 and homework and notification, and once the legislation
25 has been passed relative to the tag out program, Mr. Bunch

1 will schedule a meeting for the Evaluation Subcommittee,
2 working with ADEQ to identify a room and a time that's
3 acceptable.

4 Okay? Anything else that I didn't capture? I
5 think that's it.

6 Okay. For next meeting, I actually am not
7 available in May, so I'm not sure if we should hold the
8 May -- first of all, if I am not available, who would like
9 to chair the meeting?

10 Don't all just jump up.

11 MS. CHABERSKI: Let's nominate someone who's not
12 here today.

13 CHAIRPERSON CLEMENT: Well, then I have to assume
14 they will be coming.

15 I'll put that out. This will be a new chair
16 meeting if we decide to have a meeting in May.

17 What is the Commission's opinion about the need
18 to have a May meeting?

19 MS. HUDDLESTON: We need to approve the new
20 costs.

21 CHAIRPERSON CLEMENT: The new cost schedule by
22 July 1st; right?

23 MR. MC NEELY: I wonder if we can do that in
24 June, I mean, because we have to post them on the web,
25 unless you guys look at it and think there is a reason,

1 you are going to have comments on it. Why don't we just
2 post it in June, then you're got to approve it before
3 July 1st, so we can probably do it in the June meeting.

4 CHAIRPERSON CLEMENT: I don't see where we would
5 have any issues on it. We obviously can't discuss it in
6 detail, but it just doesn't seem to be controversial at
7 all, so we could do that in June.

8 Is there some need, though, for the tag out, the
9 new implementation of the legislation that we'd have to
10 have a May meeting?

11 MR. BUNCH: I don't necessarily think so, because
12 you got quite a bit of time between May and January, as
13 long as we can keep -- maybe Phil can update members on
14 how that works out.

15 CHAIRPERSON CLEMENT: The legislation?

16 MR. BUNCH: Correct.

17 MR. MC NEELY: I will send an e-mail out if it
18 gets approved.

19 MS. CHABERSKI: That might give you more time to
20 work on it for the June meeting to report back.

21 MR. BUNCH: Uh-huh.

22 CHAIRPERSON CLEMENT: Okay.

23 MR. BUNCH: And I guess if for some reason they
24 don't approve it, then we probably would push for
25 cancelling the May Evaluation Subcommittee.

1 MR. MC NEELY: Okay.

2 CHAIRPERSON CLEMENT: Okay. So, it sounds like

3 at least today, the consensus is that we do not need a May

4 meeting. I will get an e-mail out to the other Commission

5 members noting that and asking them if they have any

6 agenda items that should be considered in May, and if I

7 get any response back regarding that, then I will also

8 send out an e-mail asking who would like to chair the

9 meeting, because I do know I will be out of town that day.

10 Okay. Good. And we will include, obviously, the

11 cost schedule in our next meeting and a vote on that.

12 So that's it. I think the next meeting is the

13 June meeting. I may not have that with me. It would be

14 June 25th, will be the next meeting in June, and everybody

15 can put that on their calendars.

16 Okay. Any other comments, questions, anything we

17 need to cover?

18 Oh, one last thing I forgot to tell you all. I

19 did finally get thank you letters out to Ms. Andrea

20 Martincic and Ms. Theresa Foster for all of their

21 contributions to the program. I just handed out to you

22 all today copies of those thank you letters, and they were

23 put on top of the plaques that ADEQ put together and then

24 they were mailed.

25 MR. MC NEELY: We wanted to hand-deliver and

1 congratulate them in public, but they did not come to the

2 last four or five meetings, so we had to mail them.

3 CHAIRPERSON CLEMENT: They had better things to

4 do.

5 Theresa Foster literally has dedicated at least

6 10 or 12 years to this program with very faithful

7 outcomes, so, anyway, but we do appreciate all the work

8 that they did. They really did do a lot of work for the

9 program.

10 Okay. And on that note, the April 23rd, 2008 UST

11 Policy Commission meeting is adjourned.

12 Thank you everybody.

13 (9:55 a.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings had
upon the foregoing hearing are contained in the shorthand
record made by me thereof and that the foregoing 38 pages
constitute a full true and correct transcript of said
shorthand record all done to the best of my skill and
ability.

DATED at Phoenix, Arizona, this 23rd day of
April, 2008.

Deborah J. Worsley Girard
Certified Reporter
Certificate No. 50477